THOUGHTS

ON THE

GREAT CIRCUMSPECTION

NECESSARY IN LICENSING

PUBLIC ALE-HOUSES.

Submitted to the Conſideration of the Gentlemen acting in the Commiſſion of the Peace throughout England.

BY A JUSTICE OF THE PEACE.

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BODLEIAN

THOUGHTS, &c.

GENTLEMEN,

THE commiſſion under which we act, and the powers with which we are intruſted, by a variety of Acts of Parliament, ſeem no leſs to point out to us, and require from us the prevention of the riſe and progreſs of vice, than the detection and puniſhment of the moſt daring and complicated impieties. This idea is, indeed, inſeparable from the principles of good government, and ſhould in it's operation be the primary object of the Magiſtrate. It extends itſelf to all offences, however claſſed in reſpect to their Magnitude and Conſequence, or to the perſons affected by them. To be active in the puniſhment,

niſhment, and indolent in the prevention of vice, would, in effect, be to make the laws a mere ſyſtem of penal juriſprudence, inſtead of a rule of action; and would ſhew an inclination to prove the expediency of all penal ſtatutes, *only* by the number of convictions: on the ſcore of propriety and conſiſtency, ſuch a conduct may be likened to an attempt to ſtop a cataract of water, by opening additional ſprings into the baſon from whence it's ſtreams are ſupplied.

While I wiſh to draw your attention to the ſtudious and vigilant prevention of all overt and public irregularities, I do not preſume to take to myſelf the office of inſtructor. My purpoſe is barely to remind, not to inform, much leſs to dictate; and I hope the ſentiments of one Magiſtrate, upon a ſubject which has immediate relation to the common duty of his office, and which he is perſuaded is a neceſſary and very important part of it, may be delivered with freedom, without giving juſt occaſion of offence to another.

That

That once noble, and ſtupendous fabric, the Britiſh Conſtitution, has received repeated ſhocks, which affect it's foundations; but it ſuffers by none of them more than by the inroads and depredations of vice. Hence the civil power is called upon for it's aid, and it particularly becomes the duty of every order of magiſtracy to be watchful of the ſteps of vice, and determined to impede and break their rapid courſe: and though it is not in our united power to ſay unto our ſtate, "live for ever," we may, and we ought to contribute the full meaſure of our aſſiſtance towards ſecuring for it, or rather, perhaps, reſtoring to it, under the bleſſing of God, a proſpect of length of days, and an healthful old age.

Vice, profaneneſs, and immorality, in all their varied ſhapes, moſt frequently take their riſe from ſmall, and almoſt imperceptible beginnings. Corrupt as we are by nature, murder and robbery are ſeldom, if ever, the firſt outſets of the unhappy wretch who commits them. He has learned, in

ſome ſchool of vice, the leſſons and the habits which lead to idleneſs, and to a deſperate fortune: the reflection becomes inſupportable; the continued expence exceeds the proportion of his means for it's maintenance; he will not take ſhame to himſelf, and return to his religious duties, and to honeſt induſtry, without a miracle was wrought in his favor. In this moſt diſtreſsful, and generally fatal dilemma, hangs his mind, inclining to that way which leadeth to deſtruction; and here we may frequently date the commencement of thoſe practices which are cloſed only by a premature and diſgraceful death.

Neither ſhould I neglect to mention eth frequent riots and diſturbances in villages, as well as greater towns, or the frequent and groſs profanation of the Lord's Day. Both of theſe owe their riſe, generally ſpeaking, to an unneceſſary and ill-timed aſſembling at a public houſe; and, unfortunately, the profits gained by the hoſt increaſe according to the intoxication of the gueſts.

gueſts. Laws are indeed provided for the puniſhment of both theſe offences; but I am inſiſting that the duty of the Magiſtrate extends to the prevention of them. In the former caſes the laws are oftentimes eluded, by the darkneſs of the night, and the general concern of the whole company in the miſchief which is done. And the neglect of pariſh officers, or their ignorance of their duty, ſuffer the laws provided againſt the profanation of the Lord's Day from having their operation or effect.

For the ſource of all theſe ills we muſt look into the ſocieties of drunkards, and gameſters, and idlers, and enter into thoſe houſes wherein they are harboured, and wherein the unſuſpecting and unwary paſſenger is invited. And as I have now in view thoſe of the loweſt order, and of the moſt ſuſpected credit and general contagion, we muſt go into our numerous public Alehouſes. The cauſe and the effect equally correſpond, in what is vulgarly called the great world; the effect is, not unfrequently,

the commiſſion of offences of the firſt magnitude; offences which are not within our cognizance, and ſometimes, alas! not within the reach of the laws under the diſpenſation of our ſuperiors.

Forgive me then, Gentlemen, if, with the ſole view to the public's good, and to our own honor, I beg leave to call your attention to that part of our duty which reſpects the allowance and regulation of theſe nurſeries and ſeminaries of diſtreſs and wretchedneſs, of vice and felonies. To that part of our duty, wherein the deſign and ſenſe of the Legiſlature is clear and expreſs; but wherein alſo much is left without reſtraint to the diſcretion of the Magiſtrate.

For the accommodation of travellers and ſtrangers, theſe public Alehouſes are uſeful and neceſſary: they are ſometimes very convenient for the aſſembling of certain public meetings, and the tranſaction of certain public buſineſs. Beyond theſe few inſtances the uſe of them does not extend,

and,

and, conſequently, all beyond theſe caſes we muſt call the abuſe of their original deſign. And here the moderate and diſpaſſionate interpoſition of the Magiſtrate becomes neceſſary.

In order to a juſt and impartial determination, in an application for the licenſing of a public Alehouſe, we ſhould, in the firſt inſtance, pay all due attention to the character of the candidate for our favor. In this matter the law has expreſsly provided and directed, as an indiſpenſible requiſite, *(except in cities and towns corporate*)* that kind

* This exception ſtands in the ſtatute of 26 Geo. II. c. 31. upon the ſuppoſition of the near neighbourhood of the Magiſtrate with the propoſed victualler, and of his better, or perſonal knowledge of his character, and of the occaſion for ſuch houſe. The certificate of the perſon's *good fame*, and *ſober life* and *converſation*, is, however, abſolutely neceſſary in counties at large: in *cities* and *towns corporate*, it may, properly ſpeaking, be ſaid to be optional in the Magiſtrate; for an inability to produce ſuch certificate would argue ſomething very like an unfitneſs to be licenſed, unleſs, indeed, the

kind of certificate in his behalf, which, to us, muſt be the beſt evidence of his well deſerving. How far theſe certificates may be

bane of party ſquabbles could be diſcovered to have unjuſtly influenced the refuſal. What the Legiſlature further requires of the Magiſtrate is, that the licences to keep common Inns, or Ale-houſes, be granted only by *Juſtices who act in the diviſion where the propoſed licenſed perſon dwells*, and that at a certain time, of which due notice is to be given. And theſe precautions were taken, as the ſame act ſets forth, to prevent *the many inconveniencies which had ariſen from perſons being licenſed to keep Inns and common Ale-houſes, by Juſtices who lived remote from the places of abode of ſuch perſons, and might not thereby be truly informed of the occaſion or want of ſuch houſes, or the characters of the perſons applying to keep the ſame.* And it may be generally obſerved, that the law leaves the Juſtices at their abſolute diſcretion, in granting a licence to a new perſon; nor will a *mandamus* lie againſt them for any refuſal, unleſs they have been influenced by partiality, malice, or corruption. (See the caſe of the King againſt Young and Pitts, E. 31 G. II.) Agreeably, therefore, to the ſpirit of that part of the act which I have recited, it is a very good and ſafe rule, at a general meeting of Juſtices for an extenſive diviſion or diſtrict, particularly to conſult the opinion and judgment of thoſe Gentlemen, in whoſe neighbourhood the perſon propoſed to be licenſed more immediately lives.

be ſurreptitiouſly obtained, or given to perſons unworthy of them, as matter of mere form, or from a falſe principle of good neighbourhood, becomes a conſideration of a different nature, though not entirely undeſerving of enquiry. In general they may merit a favorable conſtruction, unleſs, indeed, a Magiſtrate can, from his own poſitive knowledge aver the contrary; and, in that caſe, it becomes his duty to contravene ſuch formal teſtimonial.

The next conſideration is, what occaſion there may be for ſuch Alehouſe in the place propoſed? and this enquiry ſhould be made, without reſpect either to the perſon applying for it, or to the ſponſors for his character. It ſhould be well conſidered, how far the accommodation of the public in general, or the circumſtances of that particuler townſhip, require it, or make it neceſſary. If the pariſh is ſmall, there may not be occaſion for any Alehouſe; or, if the Pariſh is only of common extent, and there ſhould be one already eſtabliſhed, there may be no occaſion

occaſion for a ſecond; and if no particular great road ſhould lie through ſuch village or pariſh, one public Alehouſe ſhould ſeem to be fully ſufficient for every good or uſeful purpoſe. Where ſuch road does paſs through a pariſh, it becomes a reaſonable enquiry, in order to a right judgment, to examine into it's diſtance from the next Public-houſe lying upon the ſame road; as alſo into the diſtance between the market towns, which are uſually conſidered as the extent of ſuch road.

It is ſometimes urged, that if ſuch additional public Ale-houſe ſhould afterwards be irregularly or diſorderly managed, the remedy is always at hand; but the uſual teſt of ſuch irregularity and diſorder is generally nothing ſhort of outrages: an houſe eſtabliſhed, is never ſuppreſſed upon the ſingle idea of it's being a neſt of idleneſs, and as diſperſing it's ſlow and ſilent, but ſure poiſon among the people. And I muſt further remark, that whatever may be the offence of the publican, there are ſo many more difficulties in the

the way of *putting down* one of theſe houſes, than there are in the way of refuſing their eſtabliſhment, that every argument againſt ſuch new licenſing ought to be allowed it's full force, before they receive our fiat.

In order to the ſuppreſſion of a public Ale-houſe, convictions muſt precede; and their diſtant ſituation from the ſuperintendance of the Magiſtrate, and the difficulty of getting information, may, for ſome time, baffle, if not defeat his vigilance. And to this let me add, that it is far more painful and diſtreſſing to an humane man, to cut off that ſource of a family's bread, to which they have long been habituated to truſt, than it is to the ſame perſon to withhold his conſent that the head of ſuch family ſhould firſt turn himſelf out of his accuſtomed line of life, into the too probable ſottiſh idleneſs of a publican. The labor of this man's hands is frequently loſt to his family and the public; and ſeldom does the ſending him back to his former occupation, reſtore to him his wonted will or power for honeſt labor.

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It has alſo been offered, as a plea for granting a licence to a diſtreſſed individual, that it will keep him from being chargeable to the pariſh: and this plea is not only advanced by the expectant pauper, who may readily be ſuppoſed deſirous of altering the mode of his dependence, but it has even been brought as a concluſive argument by the other inhabitants of the pariſh. What is this but ſaying, We would rather ſpend five times the money at the public Alehouſe, (and from our own families, many of whom are in equal want of it) out of which the publican will receive his profit, than pay our ſeparate inconſiderable ſhares to a reaſonable maintenance for him in ſobriety and honeſty. The religion of this argument is as much as to ſay, We will make our charity ſubſervient to our pleaſure and drunkenneſs. The œconomy of it wiſhes to prove, that one ſhilling is equivalent to five: and the policy of it aims to convince us, that many paupers are more eaſily maintained than one.

Some perſons, from an *official* courſe of thinking and judging, plead the advancement

ment of the King's revenue, in the ſtamp-duties, the duties on malt, hops, &c. This argument can only be ſupported on the ſtale pretence, that private vices are public benefits; and they might as well ſay, that "if all the inhabitants had the plague the nation would be healthy, and if they were all beggars the nation would be rich."

But, Gentlemen, need I ſeriouſly aſk, was this the end for which we were put into the Commiſſion of the Peace? Was it for this purpoſe we were appointed the guardians and conſervators of the public welfare? It is, moreover, an ill compliment paid to the King, to ſuppoſe that he, who is the ſovereign guardian of the ſtate, ſhould wiſh his people to be drunken and idle, (to ſay the leaſt) with a view to the increaſe of his revenue. It is an ill compliment to the Legiſlature, who have enacted ſo many ſalutary laws for the puniſhment of vice, and to that end (conſidering a certain number of public Ale-houſes as neceſſary evils) have thrown ſo many cautionary impediments in

the way of an indiſcriminate increaſe of theſe ſchools and receptacles of vice. It is an ill compliment to ourſelves, ſeeing the intention of our commiſſion, and the letter and ſpirit of thoſe laws which are to direct and rule our conduct, to ſuppoſe that we have ſo far forgotten our duty to God, to our King, and to our country, and all reſpect to our own oaths, as to imagine that we would deliberately fruſtrate the whole ſcheme and uſe of our office and appointment.

If the juſtly boaſted forms and model of our Conſtitution, or that liberty which is ſuppoſed to be enjoyed in conſequence of them, are worth preſerving, it becomes the duty of every good Magiſtrate and Citizen to ſtem that torrent which muſt finally overwhelm the liberties of this country; and to ſtop or leſſen this torrent, he muſt either cut off the ſource, or confine within narrower bounds the ſwelling waters. It is a maxim of high authority in politics, that a people muſt be debauched, profligate, and vicious in their manners, before they can be

be enſlaved. The preſent peculiar circumſtances of this empire and it's government, and the prevailing faſhion of the age in which we live, will more than overbalance the preſcribed forms of our conſtitution under a relaxed execution. The exertion of public virtue can alone avert the threatened deluge, overſpreading all that is dear to us as Britons; and as we are placed in a ſituation to ſuperintend the public peace, and therewith the morals of the people, and may be appriſed of the principal ſources of all rapacious vice, it will redound deſerved honor upon us to look diligently to the opportunities which lie in our way, and to the talents committed to our care.

The commiſſion we bear we derive immediately from the Crown, but as a diamond receives it's luſtre from the degree of it's water and it's poliſh, ſo ſhall we receive additional honor from an uniform integrity and readineſs in the equal diſtribution of juſtice, and from a manly vigilance in the prevention of all evil practices. Neither need

need I be backward to ſay, that our King and our Country will be under conſiderable obligation to us; nor is the voice of the people entirely unwilling to acknowledge the debt. But the conſcioufneſs of our own uſefulneſs will not fail abundantly to recompenſe us for our time and trouble, and the reproaches of thoſe who will revile us, only becauſe they hate virtue, and whoſe fair word would injure us more eſſentially in the eſtimation of all good men.

THE END.